

FARMINGTON CITY COUNCIL MEETING

Tuesday, August 18, 2009

CITY COUNCIL CLOSED SESSION/EAST CONFERENCE ROOM

PRESENT: Mayor Scott Harbertson, Council Members Richard Dutson, David Hale, Paula Alder, Sid Young, Cory Ritz, City Manager Max Forbush, City Attorney Todd Godfrey, City Engineer Paul Hirst, Assistant City Planner Glenn Symes, and City Recorder Margy Lomax

Motion

Cory Ritz made a motion to go into closed session to discuss the acquisition of real property. **David Hale** seconded the motion and it was approved by Council Members **Alder, Dutson, and Young**.

The closed session meeting was called to order at 5:20 p.m.

Motion

At 6:00 p.m. **Sid Young** made a motion to go out of closed session, **Cory Ritz** seconded the motion, and it was approved by Council Members **Alder, Dutson, and Hale**.

CITY COUNCIL WORK SESSION/EAST CONFERENCE ROOM

PRESENT: Mayor Scott Harbertson, Council Members Richard Dutson, David Hale, Paula Alder, Sid Young, Cory Ritz, City Manager Max Forbush, City Planner David Petersen, Assistant City Planner Glenn Symes, City Attorney Todd Godfrey, City Engineer Paul Hirst, and Recording Secretary Cynthia DeCoursey

The work session began at 6:00 p.m. **Rich Haws** and **Scott Harwood** were in attendance at the meeting to discuss Agenda Item #18.

(Agenda Item #18) – Conoco Agreement Review and Discussion as it pertains to Road-to-the-North Agreements

City Attorney **Todd Godfrey** discussed with **Rich Haws** the areas of concern as marked in the “First Amendment to the Road Agreements”. There was discussion among the Council and staff as well, and **Mr. Godfrey** agreed to send a red-line copy to **Mr. Haws** by Tuesday, August 25, 2009.

Clarifying Statement: The First Amendment to the Road Agreements” pertains to the construction of a road from Park Lane north to Burke Lane from the intersection of the road extending from Park Lane into the Commuter Rail Station. Previously, the City had entered into two separate agreements pertaining to the construction of this road by the City. The “First Amendment” draft had been sent to the City from Haws. The City presented proposed changes to Haws’ verbiage. Mr. Haws wanted to see the changes in writing.

(Agenda Item #2) Approval of Minutes of previous meeting

There were several changes to the minutes of the August 4, 2009 City Council Meeting.

The work session ended at 7:00 p.m.

REGULAR CITY COUNCIL/CITYCHAMBERS/CALL TO ORDER

PRESENT: Mayor Scott Harbertson, Council Members Richard Dutson, David Hale, Paula Alder, Sid Young, Cory Ritz, City Manager Max Forbush, Assistant City Planner Glenn Symes, City Recorder Margy Lomax, and Recording Secretary Cynthia DeCoursey.

Mayor Harbertson opened the meeting at 7:10 p.m. and welcomed those in attendance, including Youth City Council members Alexon Tiem and Tasha Fernley. Council Member **David Hale** offered the invocation, and the Pledge of Allegiance was led by Council Member **Paula Alder**.

APPROVAL OF MINUTES OF PREVIOUS MEETING (Agenda Item #2)

Motion

Sid Young made a motion that the City Council approve the minutes from the August 4, 2009 City Council Meeting with the amendments which were discussed in the work session. **Rick Dutson** seconded the motion, and it was approved by Council Members **Alder, Hale, and Ritz**.

DAVIS SCHOOL DISTRICT PRESENTATION ON PROPOSED ISSUANCE OF BONDS (Agenda Item #3)

Mayor Harbertson welcomed representatives from the Davis School District.

Bruce Williams said there would be a \$250 million general obligation bond proposal on the ballot on November 3, 2009. The Davis School District is trying to educate the public regarding their future plans for schools which includes the building of new schools and the renovation of existing buildings. **Mr. Williams** discussed the following points:

The Need: Most of the growth in the District comes from within—about 1000 students per year.

The Promise: The bond proposal will not increase the current tax rate.

The Right Time: Construction costs are considerably lower now than in the past.

Mr. Williams explained that the ballot language can be confusing, and they are trying to provide the public with the facts. He asked the Council members to complete the comment sheet

and read the two-page handout, and additional information will also be available on the DSD website.

PLANNING COMMISSION REPORT (Agenda Item #4)

Planning Commission **Chairman John Bilton** reported on the proceedings of the Planning Commission meeting held August 11, 2009. He reviewed the following items:

DAI's request for an increase of nine additional units for The Grove subdivision. **Chairman Bilton** said there were many residents in attendance, and after comments from most of them and a lengthy discussion by the Commission, the item was tabled. They asked the developers to meet with the residents and adjacent land owners to work towards a compromise.

The Commission also reviewed the site plan for the new City building and made the following recommendations: a higher quality fencing material (other than chain link), relocation of the dumpster, and further address lighting and noise.

YESCO requested that two of their billboards be raised in height. The Commission had several questions but did not get satisfactory answers from the applicant, and they decided to hold a closed session meeting. They met with City Attorney **Todd Godfrey** who informed them that if the City does not approve the request, there is a potential for litigation. They tabled the item which will be reviewed at the next meeting.

PUBLIC HEARING: CONSIDERATION OF ORDINANCE AMENDING TITLE 15 (CITY'S SIGN ORDINANCE) PERTAINING TO TEMPORARY, POLITICAL AND RESIDENTIAL REGULATIONS AS WELL AS BILLBOARDS (Agenda Item #5)

Background Information

Glenn Symes said this item was the same as the previous meeting.

Public Hearing Opened

Mayor Harbertson opened the public hearing at 7:55 p.m. There were no comments from the public, and the public hearing was closed at 7:55 p.m.

The **Mayor** asked the Council to comment regarding political signs. After a brief discussion, they agreed to reduce the length of time from 90 days to 80 days for "temporary signs". The **Mayor** also said he received an email regarding the use of paper cups for greeting signs in the fencing on the State Street overpass and asked if there was a UDOT regulation concerning this type of sign. **Mr. Symes** said this was not allowed under the City's ordinance.

Motion

Rick Dutson made a motion that the City Council adopt the City Sign Ordinance with the following change:

1. A temporary (political) sign may be displayed for a maximum period of 80 days during a calendar year, after which it must be removed or replaced by a new temporary sign that meets the other requirements of this Chapter (15-4-111).

Cory Ritz seconded the motion, and it was approved by Council Members **Alder, Hale, and Young**.

PUBLIC HEARING: CONSIDERATION OF RESOLUTION AMENDING THE CITY'S WATER RATES PERTAINING TO RESIDENTIAL, COMMERCIAL AND LAGOON. USAGE/REVIEW OF FUTURE RATE STUDY OPTIONS (Agenda Item #6)

Mayor Harbertson said the Council would listen to public comment regarding this issue tonight; however, he said they were not ready to make a decision.

Public Hearing Opened

Mayor Harbertson opened the public hearing at 8:00 p.m.

Henry Warner said the proposed rate of \$5.75 is not a lot of money, but it adds up. He asked if there was some other way funds could be obtained and if money had been set aside for this purpose.

Christine Richman, Senior Associate at Wickstrom & Associates Economic and Planning Consultants, said her company was hired by Lagoon about a month ago to study Farmington City's water rate proposal. She expressed gratitude to the Council for delaying the process and allowing them to conduct additional research. She identified several concerns:

The methodology does not establish variable, fixed or capital costs or allocate the proportion of those different costs to each of the user classes.

It does not take into account the revenue sources that have been used to fund the City's system and the operation and capital expenses of the system over the last few years.

Lagoon's water demands have not changed over the last several years, but the proposed increase disproportionately impacts Lagoon by 260%.

In the meeting with Lagoon by Farmington representatives and CRS Engineers on July 28, 2009, it was stated that the increase was being driven by higher operations costs. They believe the increases are also being driven by the number of residential users served.

Any rate charged should be designed to recoup the cost of running and maintaining the system from the users who are causing the impact.

The proposed rates are based on the AWWA's methodology which is one of many different methodologies that can be used to establish proper rates.

Dee Hansen, a registered engineer, has represented Lagoon for 15 years. He expressed several concerns:

1. The average monthly use per residence in Farmington is 12,000 gallons which seems extremely high. (Clarifying statement: *The 12,000 gallons used is for a two-month time period. Meters are only read every other month.*)
2. The rate increase was based heavily on peak demand.
3. 260% is unreasonable and is heavily weighted on Lagoon.
4. The increases are to accommodate growth, but Lagoon's growth has not changed, and it is not projected to change.

Karl Asay, 850 South 650 West, Farmington, asked if Lagoon utilizes a well.

Mayor Harbertson clarified that the 12,000 gallon amount is a two-month average per residence. He also said Lagoon has two wells; however, one is not functioning, and the other one is not in use. The **Mayor** said he was not sure what methodology the City used in its initial water study, but his primary concern was to adopt a proposal which would be fair to everyone concerned.

Public Hearing Closed

The public hearing was closed at 8:15 p.m.

The **Mayor** said it is never an easy issue to raise any kind of utility cost, but the City Council has taken this matter very seriously and is trying to do a thorough review. He pointed out that it has been more than 12 years since there was a rate increase in Farmington.

Mr. Forbush said the City engineers were instructed to use a standard commonly used by cities across the United States. The American Water Works Association (AWWA) was the methodology used to adjust the water rates. **Mr. Forbush** also said Farmington has a complicated water system—there are several pressure systems, seven reservoirs, and other unique features such as geography which makes it costly to replace and to operate. **Rick Dutson** thanked **Dave Freed** and Lagoon and said the Council plans to make a careful analysis of the data and be fair to all who are involved.

Motion

Paula Alder made a motion to table this item until the next regularly scheduled City Council meeting on September 1, 2009. **Rick Dutson** seconded the motion, and Council Members **Hale**, **Ritz**, and **Young** approved.

There was a discussion regarding which company to use for an additional water study. The Council requested that **Mr. Forbush** obtain references and more detailed information from Bowen - Collins and from Lewis Young Robertson & Burningham (LYRB). A decision will be made which firm to hire subsequent to receipt of the additional information.

REQUEST FOR APPEAL OF CITY MANAGER'S DECISION TO REJECT ACCEPTANCE OF "OPT-OUT" FORM FROM A CITIZEN WANTING TO OPT-OUT OF THE RESIDENTIAL CURBSIDE RECYCLING SERVICE (Agenda Item #7)

Jeremy Pectol, 24 West 930 North, said he has a large family with seven children, and he does not want to pay for a recycling can. He feels that if the City wants residents to recycle, the cans should be free of charge. He said he was a few hours late submitting his opt-out form, and he spoke with **Mr. Forbush** regarding the matter, but he would not make an exception. **Mr. Pectol** asked the Council to accept his late opt-out form. The Council asked him several questions and discussed the issue.

Mr. Forbush stressed that this request did not meet the requirements stated in the resolution, and no exceptions should be made. He encouraged the Council to uphold the terms of the resolution.

Motion

David Hale made a motion that the City Council accept **Jeromy Pectol's** opt-out form. **Paula Alder** seconded the motion. Council Members **Dutson**, **Ritz**, and **Young** voted against the motion, and it did not pass.

CITY MANAGER'S REPORT/RECOMMENDATION FOR IMPLEMENTING RESIDENTIAL CURBSIDE RECYCLING/PURCHASE OF CONTAINERS/ESTABLISHMENT OF MONTHLY RATE AND OTHER MATTERS (Agenda Item #8)

The Council discussed several options for the recycling containers and suggested that staff obtain more information and references regarding available options. They would like to keep the cost at \$3.90 per residence if possible. Mr. Forbush pointed out that some residents would trade in the more expensive second garbage can for a recycling can which would mean a loss of money for the City. A committee of the Mayor, Max Forbush, Keith Johnson, and a representative from Public Works was created to review proposals on which type of containers to acquire.

Motion

Paula Alder made a motion that the City Council approve the purchase of recycling containers. **David Hale** seconded the motion, and it was approved by Council Members **Dutson**, **Ritz** and **Young**.

MINUTE MOTION APPROVING SUMMARY ACTION LIST (Agenda Item #9)

- 8-1. Ratify Construction Bond Agreements previously signed by Mayor Harbertson. (See enclosed bond log).
- 8-2. Approval of Storm Water Bond Agreement with Jacobson Construction/approval of Agreement format/Authorization for Mayor to sign and staff to use Mayor's signature stamp.
- 8-3. Approval of Fire Department's recommendation to reduce ambulance charges on Ms. Gavin. This is a carryover from the last agenda.

- 8-4. Approval of holding a regular City Council meeting on Wednesday, September 16 at 7:00 p.m. with a groundbreaking ceremony at the new City Hall site at 5:30 p.m. Because of the Primary Election, the Council meeting needs to be held the next day. The response from emails indicates the Council is okay with this date and time.**

Motion

Rick Dutson made a motion to approve the items on the Summary Action List. **Paula Alder** seconded the motion, and it was approved by Council Members **Hale, Ritz, and Young.**

AGREEMENT ON DEFERRAL OF IMPACT FEES AND OTHER MATTERS REGARDING THE PROPOSED HAMPTON INN BEING CONSTRUCTED BY DHARMESH AHIR (Agenda Item #10)

Mr. Forbush distributed the most recent draft of the agreement with Shreya Management, Inc. He said **Dharmesh Ahir** threatened to relocate the motel because of the City's high impact fees. Although the City Council said they would not reduce the fees, staff's proposal is that the City offer them an incentive which would be to reimburse the transient room tax to them for 24 months. He said the impact fees would be approximately \$150,000-160,000, and half of those would be paid when they obtain the building permit, and the other half would be required prior to occupancy.

Motion

Rick Dutson made a motion that the Council approve the agreement and authorize **Mayor Harbertson** to sign the agreement after a cost-benefit analysis study has been conducted (required by state code) which will demonstrate value to the City. The motion was seconded by **David Hale**, and it was approved by Council Members **Alder, Ritz, and Young.**

FLANDERS LEASE AGREEMENT FOR LEASE OF 6.5 ACRES OF PROPERTY AT 1525 WEST BURKE LANE (Agenda Item #11)

Motion

David Hale made a motion to approve the Flanders Lease Agreement for the lease of 6.5 acres of property at 1525 West Burke Lane. **Paula Alder** seconded the motion, and it was approved by Council Members **Dutson, Ritz, and Young.**

APPROVAL OF LANDSCAPE AGREEMENT WITH ERICKSON LANDSCAPING FOR WORK AT FARMINGTON RANCHES NEIGHBORHOOD PARK/APPROVAL OF CONTRACT FOR RESTROOM TO R. RAY WARD CONSTRUCTION (Agenda Item #12)

Motion

Sid Young made a motion to approve the agreements with Erickson Landscaping for the bid listed at \$114,643 and to R. Ray Ward Construction in the amount of \$99,000 and to authorize **Mayor Harbertson** to sign the agreement. **Paula Alder** seconded the motion, and it was approved by Council Members **Dutson, Hale, and Ritz.**

RESOLUTION ESTABLISHING 2009 MUNICIPAL VOTING PRECINCTS AND POLLING PLACES FOR FARMINGTON CITY PRIMARY AND GENERAL ELECTIONS (Agenda Item #13)

The polling locations will be the same as Davis County used last year.

Motion

David Hale made a motion to adopt the resolution establishing 2009 municipal voting precincts and polling places for Farmington City primary and general elections. **Paula Alder** seconded the motion, and it was approved by Council Members **Dutson, Ritz, and Young.**

RESOLUTION DESIGNATING AND APPOINTING ELECTION AND COUNTING JUDGES AND RELATED MATTERS PERTAINING TO UPCOMING ELECTIONS (Agenda Item #14)

Motion

Sid Young made a motion to adopt the resolution designating and appointing election and counting judges and related matters pertaining to the upcoming elections. **Paula Alder** seconded the motion, and it was approved by Council Members **Dutson, Hale, Ritz.**

AWARD OF BIDS – FARMINGTON RANCHES NEIGHBORHOOD PARK TENNIS COURT (Agenda Item #15)

The Council briefly discussed the three alternatives. They agreed that vinyl coated fencing and side wings would be nice additions to the tennis court.

Motion

David Hale made a motion to approve The Tennis Company's base bid of \$84,487.00, and the alternative 3 bid, which includes 20-foot side wings and vinyl coated fencing, in the amount of \$6,852.00. **Paula Alder** seconded the motion, and it was approved by Council Members **Dutson, Ritz, and Young.**

DISCUSSION OF FUTURE SPECIAL CITY COUNCIL MEETINGS - (Agenda Item #16)

City Council Shoot with Police Department.

This will be held at 5:00 p.m. on Thursday, September 3, 2009.

Designating September 9 (or another day) to hold a Special City Council Meeting to award bids for the City Hall Project.

This was scheduled for 8:00 a.m. on Wednesday, September 9, 2009.

Designating September 22 at 8:00 a.m. as the date and time to canvass the votes of the Farmington City Primary Election.

This will be a short meeting for all City Council members to officially accept the votes.

FENCING DISCUSSION – CITY HALL SITE – (Agenda Item #17)

The **Mayor** and the Council agreed with the City Manager's recommendation that this action be deferred until after the subcontractor bids are received.

CONOCO AGREEMENT REVIEW AND DISCUSSION AS IT PERTAINS TO ROAD-TO-THE-NORTH AGREEMENTS – (Agenda Item #18)

This item was thoroughly reviewed in the work session. City Attorney **Todd Godfrey** and **Rich Haws** will further discuss the changes and update the agreement.

GOVERNING BODY REPORT - (Agenda Item #19)

Mayor Harbertson's Report

The **Mayor** said he received an email regarding the upcoming League of Cities and Towns conference. As a board member, he has been asked to nominate and honor one person in Farmington City with an award "Making Life Better Community Involvement Award." There will be 15 awards presented, and each person will be honored at the luncheon during the conference. The **Mayor** would make a small presentation and possibly have a short slide show during his speech. The Mayor suggested the nomination of **George Chipman**, Chairman of the Farmington City Trails Committee, and the Council agreed he would be a deserving recipient.

City Council Reports

Paula Alder said there is a small plot of land near Farmington Crossing which is an eyesore. She asked if it would be possible to clean it up or have the City purchase the property. A resident who was at the meeting said the weeds were cut down in the last couple of weeks; however, she said the large trees located on the property line have ruined the fence and encroach on adjacent property. She said the owner has not responded to their attorney. **Mr. Forbush** asked her to send him an email and attach pictures with an explanation of the concerns and complaints, and the City will ask **Ralph Gibbons** to enforce the matter. **Ms. Alder** asked about the City's cat policy, and she was told that all animal issues are handled through the Davis County Animal Control.

Sid Young said he did not have a report from the League of Cities and Towns policy meeting because he was not able to attend. He has been thinking about **Jeremy Pectol's** request

for the past three days. His first desire was to grant the request, but he believes if the City had granted that one exception, there would have been many additional requests for exceptions.

Cory Ritz said he spoke with a City police officer who mentioned a list of various things which had not been finished and/or repaired at the new police station. **Mr. Forbush** said this was the first time he has heard anything about it and that he would follow up on the information and report back.

David Hale asked about the status of the Benchland water agreement. **Mr. Forbush** said Benchland has agreed to convey the right-of-way for the second access road on the **Jerry Stevenson** property. He said Benchland also gave the City permission to drill a test well on their property on Main Street. If the well is successful, the City may request a trade of some kind.

ADJOURNMENT

Motion

Rick Dutson made a motion to adjourn the meeting. **Cory Ritz** seconded the motion, and it was approved by Council Members **Alder**, **Hale**, and **Young**. The meeting was adjourned at 10:00 p.m.

Margy Lomax, City Recorder
Farmington City

CLARIFYING STATEMENT:

Upon review and approval of the minutes of the City Council meeting held August 18, 2009, the following clarifying statement was added to page 1 as follows:

The First Amendment to the Road Agreements” pertains to the construction of a road from Park Lane north to Burke Lane from the intersection of the road extending from Park Lane into the Commuter Rail Station. Previously, the City had entered into two separate agreements pertaining to the construction of this road by the City. The “First Amendment” draft had been sent to the City from Haws. The City presented proposed changes to Haws’ verbiage. Mr. Haws wanted to see the changes in writing.

I hereby certify that the above change is the one approved for the City Council meeting minutes of August 18, 2009.

DATED this 3rd day of August, 2009.

Margy L. Lomax

City Recorder